

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Chris Langer,

Plaintiff,

v.

VLS Investors, LLC, a California
Limited Liability Company;
Mantee Inc., a California
Corporation; and Does 1-10,

Defendants.

Case No.

**Complaint For Damages And
Injunctive Relief For** Violations
Of: American's With Disabilities
Act; Unruh Civil Rights Act

Plaintiff Chris Langer complains of Defendants VLS Investors, LLC, a California Limited Liability Company; Mantee Inc, a California Corporation; and Does 1-10 ("Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of his van and he has a Disabled Person Parking Placard issued to him by the

1 State of California.

2 2. Defendant VLS Investors, LLC owned the property located at or about
3 10962 Ventura Blvd., Studio City, California, in May 2015.

4 3. Defendant VLS Investors, LLC own the property located at or about
5 10962 Ventura Blvd., Studio City, California, currently.

6 4. Defendant Mantee Inc. owned the Mantee Mediterranean Café
7 (“Restaurant”) located at or about 10962 Ventura Blvd., Studio City,
8 California, in May 2015.

9 5. Defendant Mantee Inc. owns the Mantee Mediterranean Café
10 (“Restaurant”) located at or about 10962 Ventura Blvd., Studio City,
11 California, currently.

12 6. Plaintiff does not know the true names of Defendants, their business
13 capacities, their ownership connection to the property and business, or their
14 relative responsibilities in causing the access violations herein complained of,
15 and alleges a joint venture and common enterprise by all such Defendants.
16 Plaintiff is informed and believes that each of the Defendants herein,
17 including Does 1 through 10, inclusive, is responsible in some capacity for
18 the events herein alleged, or is a necessary party for obtaining appropriate
19 relief. Plaintiff will seek leave to amend when the true names, capacities,
20 connections, and responsibilities of the Defendants and Does 1 through 10,
21 inclusive, are ascertained.

22
23 **JURISDICTION & VENUE:**

24 7. This Court has subject matter jurisdiction over this action pursuant to
25 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans
26 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

27 8. Pursuant to supplemental jurisdiction, an attendant and related cause
28 of action, arising from the same nucleus of operative facts and arising out of

1 the same transactions, is also brought under California's Unruh Civil Rights
2 Act, which act expressly incorporates the Americans with Disabilities Act.

3 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
4 founded on the fact that the real property which is the subject of this action is
5 located in this district and that Plaintiff's cause of action arose in this district.

6
7 **FACTUAL ALLEGATIONS:**

8 10. The Plaintiff went to the Restaurant in May 2015 to eat.

9 11. The Restaurant is a facility open to the public, a place of public
10 accommodation, and a business establishment.

11 12. Parking spaces are one of the facilities, privileges and advantages
12 specifically reserved by defendants to persons who visit the Restaurant.

13 13. Unfortunately, although parking spaces are one of the facilities
14 available to patrons of the parking lot, there was not a single compliant
15 accessible handicap parking space available for persons with disabilities that
16 complied with the Americans with Disability Act Accessibility Guidelines
17 (ADAAG) in May 2015.

18 14. Plaintiff, on information and belief, alleges that there used to be an
19 accessible parking space designed and reserved for persons with disabilities
20 on the property prior to May 2015.

21 15. The parking space that used to be available for persons with disabilities
22 has been allowed to fade or has been paved over.

23 16. Defendants had no policy or procedure in place to make sure that the
24 accessible parking spaces remain useable in the parking lot in May 2015.

25 17. The plaintiff personally encountered this problem. This inaccessible
26 condition denied the plaintiff full and equal access and caused him difficulty
27 and frustration.

28 18. Plaintiff would like to return and patronize the Restaurant, and has

1 wanted to return since May 2015, but will be deterred from visiting until the
2 defendants cure the violation.

3 19. Plaintiff visits Los Angeles County on a regular and ongoing basis
4 because he attends auctions, car shows, eats, and shops in the county.

5 20. Because of the location of the Restaurant, plaintiff would like to return,
6 and will, in the future.

7 21. The defendants have failed to maintain in working and useable
8 conditions those features required to provide ready access to persons with
9 disabilities.

10 22. Not only have the defendants failed to remove barriers and provide
11 accessible facilities as enumerated above but the removal of these barriers
12 and the provision of accessible facilities is readily achievably done at this
13 location by these defendants.

14 23. Given the obvious and blatant violation, the plaintiff alleges, on
15 information and belief, that there are other violations and barriers on the site
16 that relate to his disability. Plaintiff will amend the complaint, to provide
17 proper notice regarding the scope of this lawsuit, once he conducts a site
18 inspection. However, please be on notice that the plaintiff seeks to have all
19 barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034
20 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site,
21 he can sue to have all barriers that relate to his disability removed regardless
22 of whether he personally encountered them).

23 24. Additionally, on information and belief, the plaintiff alleges that the
24 failure to remove these barriers was intentional because: (1) these particular
25 barriers are intuitive and obvious; (2) the defendants exercised control and
26 dominion over the conditions at this location and, therefore, the lack of
27 accessible facilities was not an “accident” because had the defendants
28 intended any other configuration, they had the means and ability to make the

1 change.

2
3 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
4 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against all
5 defendants (42 U.S.C. section 12101, et seq.)

6 25. Plaintiff repleads and incorporates by reference, as if fully set forth
7 again herein, the allegations contained in all prior paragraphs of this
8 complaint.

9 26. Under the ADA, it is an act of discrimination to fail to ensure that the
10 privileges, advantages, accommodations, facilities, goods and services of any
11 place of public accommodation is offered on a full and equal basis by anyone
12 who owns, leases, or operates a place of public accommodation. See 42
13 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- 14 a. A failure to make reasonable modifications in policies, practices,
15 or procedures, when such modifications are necessary to afford
16 goods, services, facilities, privileges, advantages, or
17 accommodations to individuals with disabilities, unless the
18 accommodation would work a fundamental alteration of those
19 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 20 b. A failure to remove architectural barriers where such removal is
21 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
22 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,
23 Appendix "D."
- 24 c. A failure to make alterations in such a manner that, to the
25 maximum extent feasible, the altered portions of the facility are
26 readily accessible to and usable by individuals with disabilities,
27 including individuals who use wheelchairs or to ensure that, to
28 the maximum extent feasible, the path of travel to the altered

1 area and the bathrooms, telephones, and drinking fountains
 2 serving the altered area, are readily accessible to and usable by
 3 individuals with disabilities. 42 U.S.C. § 12183(a)(2).

4 27. Any business that provides parking spaces must provide accessible
 5 parking spaces. 1991 Standards § 4.1.2(5); 2010 Standards § 208. One in
 6 every eight of those accessible parking spaces but not less than one must be a
 7 “van” accessible parking space, *i.e.*, having an eight foot access aisle. 1991
 8 Standards § 4.1.2(5)(b). Under the 2010 Standards, one in every six
 9 accessible parking spaces must be van accessible. 2010 Standards § 208.2.4.

10 28. Here, the lack of an accessible parking space is a violation of the law.

11 29. A public accommodation must maintain in operable working condition
 12 those features of its facilities and equipment that are required to be readily
 13 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

14 30. Here, the failure to ensure that the accessible facilities were available
 15 and ready to be used by the plaintiff is a violation of the law.

16 31. Given its location and options, the Restaurant is a business that the
 17 plaintiff will continue to desire to patronize but he has been and will continue
 18 to be discriminated against due to the lack of accessible facilities and,
 19 therefore, seeks injunctive relief to remove the barriers.

20
 21 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
 22 **RIGHTS ACT** (On behalf of plaintiffs and against all defendants) (Cal Civ §
 23 51-53)

24 32. Plaintiff repleads and incorporates by reference, as if fully set forth
 25 again herein, the allegations contained in all prior paragraphs of this
 26 complaint.

27 33. Because the defendants violated the plaintiffs’ rights under the ADA,
 28 they also violated the Unruh Civil Rights Act and are liable for damages. (Civ.

1 Code § 51(f), 52(a).)

2 34. Because the violation of the Unruh Civil Rights Act resulted in
3 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are
4 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §
5 55.56(a)-(c).)

6
7 **PRAYER:**

8 Wherefore, Plaintiff prays that this court award damages and provide
9 relief as follows:

10 1. For injunctive relief, compelling defendants to comply with the
11 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
12 Plaintiff is not invoking section 55 of the California Civil Code and is not
13 seeking injunctive relief under the Disabled Persons Act at all.

14 2. Damages under the Unruh Civil Rights Act which damages provide for
15 actual damages and a statutory minimum of \$4,000.

16 3. Reasonable attorney fees, litigation expenses and costs of suit,
17 pursuant to 42 U.S.C. § 12205; Cal. Civ. Code § 52.

18 Dated: November 11, 2015 CENTER FOR DISABILITY ACCESS

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20 
21 By: _____
22 Mark Potter, Esq.
23 Attorneys for Plaintiff
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